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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,216	12/18/2000	Roger M. Snow	PA0513.ap.US	4351

7590 09/18/2002

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EXAMINER

PIERCE, WILLIAM M

ART UNIT PAPER NUMBER

3711

DATE MAILED: 09/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,216

Applicant(s)

SNOW, ROGER M.

Examiner

William M Pierce

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 4/27/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 21-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3711

DETAILED ACTION

Claims 1-11 are rejoined in view of applicant's remarks. These claims no longer provide an added burden.

Claim Rejections - 35 USC § 103

Claims 1-11 and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Awada '643 in view of Awada '550.

'643 clearly shows the claimed invention except for the resolution of the final game, the poker hand. In '643 both the dealer's and player's hand are completed and compared to resolve it. '550 teaches in a "three segment game play" (pg. 5, ln. 13 of remarks) to compare the players cards to a final pay table. This method eliminates the involvement of dealing cards to the dealer (verse games where players cards are compared to the dealers to resolve the wager), hence, speeding up the game. It is know to be desirable to speed the play of a game (i.e. more hands per given time) in order to increase profitability to the house (See Cabot, col. 1, Ins. 38-50 for example). To have used the '550 method of resolving the final wager in '643 would have been obvious in order to speed up the play of the game.

Response to Arguments

Applicant's arguments with respect to claims 21-27 have been considered but are moot in view of the new ground(s) of rejection.

Wwith respect to the Declaration of Snow it appears that this declaration is one of commercial success. However, four tables is not considered overwhelming success. Where he basically alleges that his Triple Shot is "replacing" Three Way Action, the evidence is insufficient to show that any such activity is related to the claimed invention. Players loose interest in old games and are inherently drawn to new games. Further a game that is, for example, cheaper for a casino to lease will also result in it replacing the competition. In short, there is no evidence that shows any nexus to the claimed invention to support any claim of commercial success to overcome the obviousness rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3711

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (703) 308-3551.

Any inquiry not concerning the merits of the case such as **missing papers, copies, status or information** should be directed to Tech Center 3700 Customer Service Center at (703) 306-5648 where the fax number is (703) 308-7957 and the email is Customerservice3700@uspto.gov.

For **official fax** communications to be officially entered in the application the fax number is (703) 305-3579.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.


WILLIAM M. PIERCE
PRIMARY EXAMINER